



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO

FANNON PETROLEUM SERVICES, INC.

FOR

THE FANNON PETROLEUM GAINESVILLE FACILITY

Registration No. 73934

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Fannon Petroleum Services, Inc. regarding the Fannon Petroleum Gainesville Facility for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facility" means the Fannon Petroleum Services, Inc. facility located at 7755 Progress Court in Gainesville, Virginia.
5. "Fannon" means Fannon Petroleum Services, Inc., a corporation, authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. Fannon is a "person" within the meaning of Va. Code § 10.1-1300.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
9. "Permit" means a Stationary Source Permit to operate a bulk fueling plant at 7755 Progress Court in Gainesville, Virginia issued under the Virginia Air Pollution Control Law and the Regulations to Fannon Petroleum Services, Inc. on August 29, 2012.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. Fannon owns the Facility. The Facility is a bulk fueling plant. The Facility is the subject of the Permit which allows Fannon to operate the bulk fueling plant.
2. On December 21, 2016, DEQ staff requested that Fannon complete and submit its Calendar Year 2016 Annual Update by March 1, 2017. Fannon submitted a completed Annual Update for Calendar Year 2016 for the Facility to DEQ on May 19, 2017.
3. On November 1, 2017, DEQ staff performed a review of the Calendar Year 2016 Annual Update for the Facility and observed the following:
 - a. Fannon reported a combined annual throughput of gasoline through the gasoline dispensing facility (service station pumps) and the loading rack (LR-1) of 583,000 gallons.

- b. Based on the combined annual throughput of reported by Fannon, DEQ staff calculated volatile organic compound (VOC) emissions from the Facility for Calendar Year 2016 to be 0.66 tons per year.
4. On May 15, 2018, DEQ staff performed a review of the Calendar Year 2017 Annual Update for the Facility and observed the following:
 - a. Fannon reported a combined annual throughput of gasoline through the gasoline dispensing facility (service station pumps) and the loading rack (LR-1) of 546,000 gallons.
5. Permit Condition 6 states- Throughput- The combined annual throughput of gasoline through the gasoline dispensing facility (service station pumps) and the loading rack (LR-1) shall not exceed 480,000 gallons per year, calculated monthly as the sum of each consecutive twelve month period. Refer to condition 10 for record keeping requirements to demonstrate compliance with this condition. For the purposes of compliance with the conditions of this permit, the definition of "Gasoline" shall include gasoline and gasoline blends including, but not limited to, gasoline/alcohol blends, gasoline/MTBE blends, and gasoline blends containing oxygenates or other compounds such that the RVP of the resulting product is 4psi or greater.
6. Permit Condition 8 states- Facility wide Emission Limits- Total emissions from the gasoline storage tanks (Ref. #s 2, 3, and 4), the loading rack (Ref. # LR-1), and all associated equipment in the gasoline liquid transfer and vapor collection systems, shall not exceed the limits specified below: Volatile Organic Compounds (VOC)- 0.62 tons/yr. These emissions are derived from the estimated overall emission contribution from operating limits. Exceedance of the operating limits may be considered credible evidence of the exceedance of emission limits. Compliance with these emission limits may be determined as stated in Condition 6.
7. 9 VAC 5-20-160A states that the owner of any stationary source to which permits are issued under 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) or for which emission standards are given in 9 VAC 5 Chapter 40 (9VAC 5-40-10 et seq.). 9 VAC 5 Chapter 50 (9VAC 5-50-10 et seq.) and 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.) shall, upon request of the board, register such source operations with the board and update such registration information. The information required for registration shall be determined by the board and shall be provided in the manner specified by the board. Owners should review the emission standard for their respective source type to identify the exemption levels for purposes of this section.
8. On December 20, 2017, based on the observations noted above, the Department issued Notice of Violation No. ANRO000762-001 to Fannon for the violations described in paragraph C(3) and Notice of Violation No. ANRO000762-002 on May 15, 2018, to Fannon for the violations described in C(4).

9. On January 25, 2018, DEQ staff met with Fannon representatives to discuss the aforementioned Notices of Violation and corrective action.
10. On November 19, 2018, Fannon provided 12-month rolling total gasoline throughput data to DEQ. This data showed that Fannon exceeded its permitted gasoline throughput limit in Calendar Years 2014, 2015, 2016 and 2017 and had 8 months of 12 month rolling total throughputs that exceeded their throughput limit in 2018. Fannon exceeded its 480,000 gallon throughput limit for 44 months during the period from October 2014 through the present. In addition, this data showed that Fannon exceeded its VOC limit in Calendar Years 2015, 2016, and 2017.
11. Based on the Calendar Year 2016 Annual Update for the Facility submitted on May 19, 2017, the Calendar Year 2017 Annual Update submitted on February 5, 2018, and additional information submitted by Fannon on November 19, 2018, the Board concludes that Fannon has violated Permit Condition 6 and 8 and 9 VAC 5-20-160A, as described in paragraphs C(2) through C(10), above.
12. In order for Fannon to return to compliance, DEQ staff and representatives of Fannon have agree to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Fannon Petroleum Services, Inc., and Fannon Petroleum Services, Inc. agrees to pay a civil charge of \$16,000.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Fannon Petroleum Services, Inc. shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Fannon Petroleum Services, Inc. shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Fannon Petroleum Services, Inc. for good cause shown by Fannon Petroleum Services, Inc. or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Fannon Petroleum Services, Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Fannon Petroleum Services, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Fannon Petroleum Services, Inc. declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Fannon Petroleum Services, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Fannon Petroleum Services, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Fannon Petroleum Services, Inc. shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Fannon Petroleum Services, Inc. shall

notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.


Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Fannon Petroleum Services, Inc.. Nevertheless, Fannon Petroleum Services, Inc. agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Fannon Petroleum Services, Inc. has completed all of the requirements of the Order;
 - b. Fannon Petroleum Services, Inc. petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Fannon Petroleum Services, Inc..

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Fannon Petroleum Services, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Fannon Petroleum Services, Inc. and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Fannon Petroleum Services, Inc. certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Fannon Petroleum Services, Inc. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Fannon Petroleum Services, Inc..
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Fannon Petroleum Services, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 18th day of April, 2019.


Thomas A. Faha, Regional Director
Department of Environmental Quality

------(Remainder of Page Intentionally Blank)-----

Fannon Petroleum Services, Inc. voluntarily agrees to the issuance of this Order.

Date: 4/8/2019 By: [Signature], Vice President
John Fannon (Person) (Title)
[Fannon Petroleum Services, Inc.]

Commonwealth of Virginia
City/County of Prince William

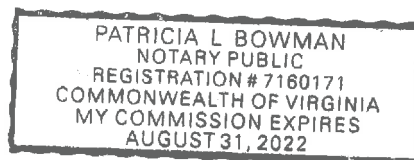
The foregoing document was signed and acknowledged before me this 8th day of
April, 2019, by John C. Fannon who is
Vice President of Fannon Petroleum Services, Inc. on behalf of the
corporation.

[Signature]
Notary Public

7160171
Registration No.

My commission expires: August 31, 2022

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Fannon Petroleum Services, Inc. shall:

1. Submit a complete permit application to DEQ within 30 days of execution of this Order.
Respond to any requests for information within the time frame specified by DEQ in permitting correspondence.

2. Certification of Documents and Reports

In accordance with 9 VAC 5-20-230(A), in all documents or reports submitted to DEQ pursuant to this Consent Order, Fannon Petroleum Services, Inc. shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

3. DEQ Contact

Unless otherwise specified in this Order Fannon Petroleum Services, Inc. shall submit all requirements of Appendix A of this Order to:

Virginia Department of Environmental Quality
Northern Regional Office
Attention Enforcement
13901 Crown Court
Woodbridge, VA 22193